

**THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CORNELL CARTER,)	CASE NO. 1: 09 CV 1857
)	
Plaintiff,)	
)	JUDGE DONALD C. NUGENT
v.)	
)	JUDGMENT
OFFICER TIM GUERRA,)	
)	
Defendant.)	

The above-captioned case came before this Court for a trial by jury.

This action advanced to trial on Plaintiffs', Cornell Carter, Michael Carter and Brandon Carter, claims against Defendants Officer Tim Guerra, Officer Sam Feldman, Officer Kevin Grady, Officer Brian Stockwell, Officer David Skrletts, Detective Frank Woyma and Sgt. Michael Baker. Specifically, in Count Two Cornell Carter claims that Officer Tim Guerra used excessive force in connection with his detention on April 3, 2007; in Count Three Brandon Carter alleges that Officers Feldman and Grady unlawfully arrested him on May 3, 2007 and used excessive force to effectuate the arrest; in Count Four Cornell Carter alleges that Officer Stockwell used excessive force in arresting him on June 6, 2008 and Michael Carter alleges that Officer Skrletts unlawfully arrested him on June 6, 2008; in Count Five Michael Carter alleges that Sgt. Baker and Det. Woyma unlawfully arrested him on June 24, 2008.¹

¹

Originally, this action was filed by Angela Smiley, as parent and next friend to Brandon Carter, Cornell Carter and Michael Carter against Police Officers Vu Nguyen, Terrence Shoulders, Daniel David, Marvin Young, Patrick Andrejcak, Tim Guerra, Timothy Ward, John Kubas, Richard Mover, Sam Feldman, Kevin Grady, Brian Stockwell, Arthur

The trial commenced on May 23, 2011. Plaintiffs' Motion to Dismiss Brandon Carter (ECF #77) is granted. Brandon Carter's claims (Count Three—against Officers Feldman and Grady) are dismissed with prejudice. A Jury of twelve was duly impaneled and sworn, and opening statements of counsel were made. Plaintiff called the following witness(es): (1) Patrolman Tim Guerra; (2) Cornell Carter; (3) Patrolman Brian Stockwell; (4) Detective Frank Woyma; and (5) Michael J. Carter, Jr.. Court was adjourned until May 24, 2011 at 8:30 a. m.

The trial continued on May 24, 2011. Plaintiffs called the following witness(es): (6) Ashley Carter; and (7) Jasmine Carter. Plaintiff rested. Defendants' Motion pursuant to Fed. R. Civ. P. 50 for Judgment as a Matter of Law is granted as to Patrolman Stockwell, Patrolman Skrletts, Sgt. Baker, and Detective Woyma. Counts Four and Five of the Complaint are dismissed. The case will proceed only on Cornell Carter's claim against Patrolman Tim Guerra for excessive force in connection with his detention on April 3, 2007. (Count Two). Defendant calls the following witness(es): (1) Patrolman

Littell, David Skrletts, Michael Baker, Frank Woyma, Michele Rivera, Gregory Ramser and the City of Cleveland. Plaintiffs brought claims for use of excessive force and the exercise of unreasonable search and seizures in violation of their rights under the Fourth, Fifth, Eighth and Fourteenth Amendments to the United States Constitution, and in violation of 42 U.S.C. §§ 1983 and 1988 (Counts 1-5). (ECF #1). Plaintiffs also raised a claim for punitive damages (Count 9). (ECF #1). Counts Six, Seven, Eight and Ten were voluntarily dismissed by the Plaintiffs. The Court in ruling on Defendants' Motion for Summary Judgment substituted Brandon Carter as Plaintiff in place of his parent and next friend Angela Smiley, as he has now reached the age of majority and dismissed Angela Smiley from the action. The City of Cleveland and Patrolman Shoulders, Patrolman David, Patrolman Young, Patrolman Andrejcak, Patrolman Ward, Patrolman Kubas, Patrolman Mauer (Mover), Patrolman Littell, Patrolwoman Rivera, and Patrolman Ramser were also dismissed. The Court also determined that Patrolman Nguyen is entitled to Qualified Immunity for his actions relating to the allegations in Count One and dismissed Patrolman Nguyen and Count One.(ECF #47)

John Dubis; (2) Patrolman Tim Guerra, and (3) Sgt. Vincent Mamone. Court was adjourned until May 25, 2011 at 8:30 a. m.

The trial continued on May 25, 2011. The Court instructed the Jury on the law pursuant to Rule 51 of the Federal Rules of Civil Procedure. Closing arguments of counsel were made. The Court gave final instructions to the Jury and the Jury thereafter retired to deliberate. The Jury, in open court, returned the following unanimous Verdict:

**GENERAL VERDICT-COUNT TWO
IN FAVOR OF DEFENDANT**

We the Jury, having been duly impaneled and sworn, do find in favor of the Defendant, Tim Guerra and against Plaintiff Cornell Carter on Plaintiff's claim that Defendant used excessive force in arresting him in violation of the Fourth Amendment to the United States Constitution.

The Court read the Verdict in open court, and thereafter, the Court polled the Jury. Each Juror affirmatively responded to the correctness of the Verdict. The Jury was then discharged.

THEREFORE, the Court enters Judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure in favor of Defendant Tim Guerra and against Plaintiff Cornell Carter on Plaintiff's claim that Defendant used excessive force in arresting him in violation of the Fourth Amendment to the United States Constitution. (Count Two). Judgment is also entered in favor of Defendants Brian Stockwell, David Skrletts, Frank Woyma and Michael Baker and against Plaintiffs on Counts Four and Five of the Complaint pursuant to Fed. R. Civ. P. 50. The claims of Brandon Carter against

Defendants Feldman and Grady (Count Three) are dismissed with prejudice pursuant to Plaintiff Brandon Carter's Motion to Dismiss. This action is terminated. All costs to Plaintiffs.

IT IS SO ORDERED.

DATED: May 26, 2011

Donald C. Nugent
DONALD C. NUGENT
UNITED STATES DISTRICT JUDGE